IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2537 OF 2004

Shri Chanappa Nagesh Savalgi,)
Resident of Akkalkot,)
Shivgundewada, Near Khandoba)
Mandir, Akkalkot, Dist.Solapur)..PETITIONER
Versus
1.The Deputy Engineer, Minor)
Irrigation (Local)Sub-Division)
Akkalkot, Dist.Solapur.)..RESPONDENTS
2. State of Maharashtra)
3.Executive Engineer,)
La-Pa-Stha-Stari Vi No.2,)
through Z.P. Solapur.)

Mr. S.S.Shah, for the Petitioner.
Mr. Nitin Jamdar for respondent Nos.1 & 3.
Mr. V.P. Malwankar, AGP for Respondent No.2.

CORAM: F.I. REBELLO &
DR. D.Y.CHANDRACHUD, JJ.
DATE : 24th January,2006

JUDGMENT (PER F.I. REBELLO, J):

. The petitioner was employed as a Muster Assistant. His services came to be terminated on 8th February, 1988. Consequent to raising a dispute a reference was made. By an award dated 20th April, 2001 the reference was allowed and the petitioner was directed to be reinstated with other consequential reliefs as set out in the award. The department aggrieved by the award preferred a petition before this Court being Writ Petition No.4820 of 2002. A learned Single Judge relied on the judgment of another learned Judge in the case of Chief Executive Officer, Zilla Parishad,Ahmednagar Vs. Daulat

Narsingrao Deshmukh & Anr. 2001 (2) Maha. Law Journal 543 and disposed of the petition by reproducing para.9 of the award. In para. 9 in the case of Subhash Narayan Ahirrao vs. Deputy Engineer, PWD Sub-Duivision Dhule, 1991 Lab. I.C. 1688, which had taken the view that Muster Assistants were not workmen. The learned Judge, however, noted that considering G.R. dated 1st December, 1995 the case of the respondent before it should be considered. Subsequent to that the respondent by order dated 21st February, 2004 was pleased to hold that the services of the petitioner stood terminated. It is this order which is the subject matter of the present petition.

2. It is contended on behalf of the petitioner by the learned Counsel that the order dated 21st January, 2004 is non-speaking order and without giving an opportunity to the petitioner herein. We have heard learned Counsel on that count. Direction by this Court was to the respondent to consider the petitioner for regularisation in terms of G.R. dated 1st December, 1995 and subsequent G.Rs. Under those G.Rs. the requirement was that the concerned person ought to have been a working as on 31st May, 1993 and his name had to be in the seniority list. In the instant case the services of the petitioner came to be terminated in the year 1988. In other words he was not working as on 31st May, 1993. Once that be

the case the order passed by the respondent cannot be faulted. Consequently Rule discharged. In the circumstances of the case there shall be no order as to costs.

(F.I.REBELLO, J.)

(DR. D.Y.CHANDRACHUD, J.)